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Viewing cable 09STATE122115, KENYA'S CONVENTIONAL ARMS END-USER CERTIFICATE

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Every cable message consists of three parts:

- The top box shows each cables unique reference number, when and by whom it originally was sent, and what its initial classification was.
- The middle box contains the header information that is associated with the cable. It includes information about the receiver(s) as well as a general subject.
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Reference ID	Created	Released	Classification	Origin
09STATE122115	2009-11-27 17:49	2011-08-30 01:44	SECRET//NOFORN	Secretary of State

Appears in these articles:

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VZCZCXYZ0000
PP RUEHWEB

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E.O. 12958: DECL: 10/19/2029
TAGS: [MARR](#) [MCAP](#) [MOPS](#) [PARM](#) [PINR](#) [PREL](#) [PTER](#) [MASS](#)
SUBJECT: KENYA'S CONVENTIONAL ARMS END-USER CERTIFICATE
VIOLATION

Classified By: AF Johnnie Carson for reasons 1.4 (b) and (d).

[1](#)1. (U) This is an action request. See paragraph 6.

background

¶2. (S//NF) Since late 2007, the Government of Kenya (GOK) has assisted the Government of Southern Sudan's (GOSS) military, the Sudan People's Liberation Army (SPLA), with the purchase of Ukrainian-origin lethal military equipment (LME), including T-72 tanks, BM-21 multiple rocket launchers, and helicopters. The GOK signed a contract with the Government of Ukraine (GOU) to facilitate this transfer. Publicly, the GOK has stated the Ukrainian-origin LME was for the exclusive use of the Kenyan military and that it has no military training or technical ties to the GOSS. Privately, some senior GOK officials have been less categorical in their denials and indicate that they believe shipments are consistent with the Comprehensive Peace Agreement (CPA). The Kenyan Minister of Internal Security visited the Department in 2006 and mentioned that this sale was in the making.

¶3. (S//NF) In April 2008, we first approached the GOU about these transfers. Ukrainian officials indicated the equipment was for use by the Kenyan military and that they did not supply armaments to the GOSS. They also denied any military training or technical ties with the GOSS. In August 2008, we provided additional information on a shipment of LME from Ukraine to Kenya and reiterated our concerns regarding the diversion of LME to the GOSS. Ukrainian officials acknowledged the sale of LME to Kenya but continued to deny the possibility that the weapons were intended for or had been diverted to the GOSS, noting an end-user certification from the Kenyan government. Ukraine requested additional information to substantiate USG claims that the equipment had in fact been diverted to the GOSS.

¶4. (S//NF) In September 2009, ISN Acting A/S Van Diepen met with Ukrainian officials and presented imagery of Ukrainian T-72 tanks departing Ukraine, arriving in Kenya, and ending up in South Sudan as clear evidence the Ukrainian arms shipments to Kenya were ending up in South Sudan. The Ukrainians responded that they had no relationship with the GOSS, that their only contract was with Kenya, and that they had no knowledge of any plan to divert the weapons to the GOSS. Finally, they promised to investigate the transfer and report back to the USG.

¶5. (S//NF) The United States and the international community are concerned with the transfer of certain heavy military weapons to the GOSS given the potential destabilizing effect in the region. Now that we have addressed this issue with the Ukrainians, Washington would like to approach the GOK to obtain their version of the story. Under U.S. law, the transfer of LME to any entity in Sudan, a designated state sponsor of terrorism, by Kenya could trigger sanctions. END of background.

action request

¶6. (S) Department requests Embassy Nairobi approach appropriate host government officials, drawing from suggested talking points in paragraph 8. The Department strongly believes that the imagery portion of this demarche, which will be sent separately, should be delivered by an IC representative. To that end, the Department requests that Embassy Nairobi coordinates this delivery with the local IC officer. Note: This imagery may be shown to, but may not be left with, GOK officials.

objectives

¶7. (S) Embassy Nairobi should seek to pursue the following objectives:

-- Provide, as appropriate, GOK officials with information regarding the transfer of Ukrainian-origin T-72s, BM-21 multiple rocket launchers, helicopters, and other LME to the goss.

-- Acknowledge to GOK that we recognize the apparent disconnect between the provision in the Comprehensive Peace Agreement that acknowledges the need for southern Sudan to have an appropriate military capability and our legislation that prohibits foreign countries from supplying LME to the Government of Sudan, which the GOSS is legally a part of. However, retransfers of LME are required to follow responsible guidelines established by numerous international organizations.

-- Note to GOK officials the USG and the international community's concern with the potential destabilizing effect that the secret transfer of certain heavy military equipment and small arms and light weapons (SALW) can generate in the region.

-- Inform the GOK that because the Government of Sudan, which includes the GOSS, is a U.S.-designated state sponsor of terrorism, transfers of LME to Sudan would trigger U.S. sanctions against supplier governments. As appropriate, Post may also note that the legislation does include a waiver provision and that a much stronger case for a waiver can be made if the GOK is cooperative in this inquiry.

talking points

18. (S//REL KENYA) Begin talking points:

-- We have information that the GOK signed a contract with Ukraine to purchase a variety of lethal military equipment.

-- As part of this transaction, Ukraine shipped more than 75 T-72 tanks, as well as a range of other lethal military equipment to Kenya since November 2007.

-- You have publicly indicated that the equipment was for use by the Kenyan military and that you did not supply any armaments to the GOSS or SPLA. You also indicated that you have no military training or technical ties to the GOSS.

-- However, we understand that part of this equipment was retransferred to the Government of Southern Sudan, and we can share some information with you that confirm this.

-- We recognize the apparent disconnect between the provision in the Comprehensive Peace Agreement that acknowledges the need for southern Sudan to have an appropriate military capability and our legislation that prohibits foreign countries from supplying lethal military equipment to the Government of Sudan, of which the GOSS is legally a part.

-- We also recognize that some members of your government informed some members of the USG that this deal was being prepared.

-- However, retransfers of lethal military equipment are required to follow responsible guidelines established by numerous international organizations, beginning with the United Nations.

-- This shipment represents one of the world's largest gray market arms sales in more than ten years.

-- Items such as tanks are excessive to southern Sudan's defense needs, and it will be difficult for it to maintain them.

-- The United States and the international community are concerned that transfers of lethal military equipment to southern Sudan will have a destabilizing effect on regional security by increasing the chances of an arms race with Khartoum. We also are concerned that some of the equipment could fall into the hands of other entities such as terrorist groups as a result of a deliberate transfer, poor stockpile security, or capture on the battlefield.

-- Because the Government of Sudan is a U.S.-designated state sponsor of terrorism, transfers of LME to Sudan would trigger U.S. sanctions against supplier governments.

-) These sanctions can be waived. A much stronger case can be made for a waiver if Kenya cooperates in this inquiry.

End talking points.

point of contact

¶9. (U) Washington point of contact for follow up is Lou Ganem, ISN/CATR.

¶10. (U) Department thanks Post for its assistance. Please slug all responses for ISN, EUR, AF, and T.
Clinton